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Mediating Civil Liberties: Liberal and Civil Libertarian Reactions to Father Coughlin

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By August 15, 1939, Magistrate Michael A. Ford had had it. Sitting at his bench in the Tombs Court of New York City, faced with a sobbing peddler of *Social Justice* magazine, he dressed her down with scathing language before revealing her sentence. "I think you are one of the most contemptible individuals ever brought into my court," he stated. "There is no place in this free country for any person who entertains the narrow, bigoted, intolerant ideas you have in your head. You remind me of a witch burner. You belong to the Middle Ages. You don't belong to this modern civilized day of ours...He who instills such ideas in your head, be he a priest or anyone else, does not belong to this country." After delivering his caustic lecture, Ford sentenced forty-two year old Florence Nash to thirty days in a workhouse, and suspended the sentence contingent on future good behavior. Nash's crime? While hawking copies of *Social Justice*, an often anti-Semitic and pro-fascist magazine heavily influenced by the Catholic priest Father Coughlin, she had "made a public attack on Jews" and shouted at one Harry Spielberg who complained to the authorities.[1]

By August 1939, Nash's judge, Michael Ford must have long since wearied of the disorder caused by Father Coughlin's followers. On April 8 of the same year, a crowd of "several thousand" mobbed ten of Father Coughlin's followers who were distributing *Social Justice* newspapers to after-theatre crowds in Times Square. Less than two weeks later, the New York City Police found it necessary to arrange a special detail composed of 70 officers to protect individuals selling copies of *Social Justice*, Hitler's *Mein Kamph,* and the leftist weekly *The New*

[1] *New York Times*, August 16, 1939

Masses. Although it was not clear that all of the publications being peddled were affiliated with Father Coughlin, he was widely recognized as the driving force behind *Social Justice* magazine and as a leading anti-Semite. The disturbances continued in May when New York police arrested eight individuals during demonstrations supporting Father Coughlin's radio broadcasts. By the time Florence Nash arrived at Michael Ford's bench, the judge, as well as the rest of New York, was far too familiar with Father Coughlin's following and the bigotry and unrest they excited.[2]

Father Coughlin, a Catholic priest who ran his ministry from the Detroit suburb of Royal Oak, Michigan, began his public life in 1926 when he formed "The Radio League of the Little Flower." The Radio League began as a broadcast of religious services, but soon evolved into a forum for Coughlin to air his opinions on matters from religion to politics and economics to the Lindbergh baby kidnapping. In March 1936, Coughlin began publishing *Social Justice*, a weekly newspaper which, although others contributed, largely served as an extension of the views which he expressed on the radio. Although Coughlin began his radio and print career by speaking out against communism and the callous oppression of the individual by industry, by the late 1930s he had begun to promote anti-Semitism and fascism and by 1939, some historians argue that he had become the nation's most notorious anti-Semite. By the early 1940s, a National Association of Broadcasters code, which prohibited individuals from paying for airtime to broadcast controversial views, forced almost all of his broadcasts off the air. Despite this setback, he

[2] *New York Times,* April 9, 16, 1939; *New York Times*, April 16, 1939; Both the April 16, 1939 story and a May 29, 1939 story in the *New York Times* refer to *Social Justice* as "Father Charles E. Coughlin's magazine" and "Father Coughlin's publication" respectively

continued to print *Social Justice.* As World War II began, Coughlin criticized the United States' allies while offering veiled praise of the fascist regimes against which his country fought.[3]

For many liberals and civil libertarians, Coughlin's exercise of free speech through his radio broadcasts and *Social Justice* tested their commitment to tolerance and First Amendment guarantees of free expression. Many of them had struggled to defend their own free speech rights. During the First World War, the government heavily censored and hounded any person, publication, or group that opposed or appeared to oppose the war. Many citizens joined in by harassing anyone who appeared to take exception to the war or the government's actions. In November 1917, Attorney General Gregory stated "May God have mercy on them [dissenters] for they need expect none from an outraged people and an avenging Government." By 1918, the situation had become inflamed to the point where an unproven allegation of sedition could land a person in prison, local "vigilance committees" forced citizens to buy war bonds, and universities dismissed professors who had either expressed concrete reservations about the war or who made "half-loyal" statements. *The Nation* found its September 14, 1918 issue banned from the mail because an article criticized aspects of the administration's labor policy. Although President Woodrow Wilson intervened and Postmaster General Burleson lifted the ban on *The Nation* after four days, other publications were not so lucky. During 1918, the Post Office banned *The Freeman's Journal and Catholic Register*, *Irish Journal*, and *Pearson's Journal* from the mail,

[3] Warren, Donald. *Radio Priest: Charles Coughlin, the Father of Hate Radio.* New York: The Free Press, 1996, 24, 76; Brinkley, Alan. *Voices of Protest: Huey Long, Father Coughlin, and the Great Depression.* New York: Random House, 1982, 144-148, 95-96; Warren, 72-5; Steele, Richard W. *Free Speech in the Good War.* New York: St. Martin's Press, 1999,44; Warren, 223

as well as a pamphlet which, although it did not make anti-war statements, argued strongly against censorship.[4]

Struggles over freedom of speech continued in the early 1920s, as organizations and proponents of civil liberties found themselves in a "seemingly hopeless" situation. Both the courts and public opinion remained hostile towards the speech rights of those who voiced opinions in favor of the labor movement and against forced patriotism. In January 1920, the National Civil Liberties Bureau, headed by Roger Baldwin, a liberal activist and conscientious objector during World War I, changed its name to the American Civil Liberties Union (ACLU). Fashioning itself as an impartial defender of civil liberties, with an emphasis on free speech, the ACLU became a fundamental advocate of civil liberties. It stood out from other civil libertarian organizations such as the NAACP or the Anti-Defamation League which served particular interest groups, and instead focused on civil liberties and free speech rights for all citizens. ACLU members showed their commitment to the advancement of civil rights by taking up unpopular and sometimes dangerous causes. During the 1920s and 1930s, the ACLU defended the speech rights of communists, condemned the KKK, and publicized the withholding of civil liberties from African-Americans. Although the ACLU and other active individuals invested themselves deeply in securing civil liberties for American citizens, they made little progress until the end of the decade. By the early 1930s, however, several favorable Supreme Court decisions and changing public opinion had helped civil liberties make significant advancements including the granting of more First Amendment protections to Communists and the allowance of picketing during strikes. The situation continued to improve during the 1930s as the American Bar Association created a Committee on the Bill of Rights, the American Library Association

[4] Fite, C. and Gilbert C. *Opponents of War.* Madison, University of Wisconsin Press, 1957, 14, 181, 161, 104-6,100

passed a Library Bill of Rights, and the Justice Department created a Civil Liberties Unit.[5] Although many proponents of civil liberties, including Roger Baldwin feared that the expansion of federal power brought on by the New Deal would further curb civil liberties, the situation actually improved, changing the way many civil libertarians viewed government intervention. By 1938, Baldwin stated that civil liberties had "advanced tremendously within the last three years."[6]

By the late 1930s, the same individuals and groups who had opposed censorship during the First World War found themselves living in a drastically changed world. Many civil libertarians and liberals had always seen the government as the enemy of dissenters and minority groups. During World War I, and the decade following, most government-imposed speech restrictions attempted to silence minority groups and their opinions. By 1938 however, Coughlin had turned the world of free speech upside down by voicing philosophies which most civil libertarians and liberals found repugnant, and by using radio broadcasting – a new technology – in addition to printed materials to outshout his more liberally minded opponents. Civil libertarians, faced with the prospect of defending Coughlin's right to free speech, found themselves moderating the positions they had taken during and immediately after the First World War. Civil libertarians who had resisted any sort of censorship now saw some advantages in government-enforced speech restrictions. Three factors contributed to their change of perspective: Coughlin's use of radio, his apparent support of fascism, and the liberals' post-New Deal respect for the government's value as a mediator. In reaction to these factors, some civil

[5] Although it did little in practice, the Civil Liberties Unit marked the first endeavor by the Justice Department to protect citizens civil liberties

[6] Walker, Samuel. *In Defense of American Liberties: a History of the ACLU.* Carbondale: Southern Illinois UP, 1990, Chapter 3, 47, Chapter 3, 106, 111-3, 97

libertarians speaking through journals such as *The New Republic* and *The Nation* supported the government's silencing of Coughlin, while others including key members of the ACLU, advocated a careful and limited system of speech regulation which they considered a preferable alternative to total speech suppression.

The exponential increase in radio broadcasting was, perhaps, the greatest transformation in free speech between the World Wars. Radio broadcasting ushered in incredible opportunities for the dissemination of opinions as well as greater challenges for their regulation. Broadcasting proved even more powerful than print publications as a spoken voice suddenly had the ability to reach thousands of listeners instantaneously. Broadcasters reached the illiterate as well as the literate and could evoke more powerful emotions than printed magazines, newspapers, or pamphlets. However, as much as it may have appeared to trump printed media, broadcasting also limited speech. Radio, unlike printed media, had limits on the number of programs which could be broadcast in one day. Radio could only broadcast for 24 hours each day and some of those hours reached a much wider audience than others. Print, in contrast, offered almost unlimited venues of free speech. In addition to printing one's views in a newspaper or periodical, one could print and distribute one's own pamphlets. Radio broadcasting did not provide this freedom of access and could force individuals with opposing views to compete against each other for air time.

As radio broadcasting increased, so did government regulation of it. At first the government only concerned itself with regulating frequencies and spectrum resources. In 1912, Congress passed the Radio Act and thus enabled the Secretary of Commerce to license specific frequencies to individual radio operators. By the early 1920s, Secretary of Commerce Herbert

Hoover had constructed a rationale for exercising some control over broadcast content in order to serve the public interest. The Radio Act of 1927 reflected his philosophy by stating that the airwaves belonged to the public rather than to a particular broadcaster and that as such the government had the responsibility to ensure that radio broadcasting served the public. On July 11, 1934, the Communications Act of 1934 established the Federal Communications Commission (FCC) to monitor both radio frequencies and broadcasting content. Despite the implications of the statements made by Hoover in the 1920s and the Radio Act of 1927, the Communications Act did not technically give the FCC the power to regulate broadcasting content.[7]

Father Coughlin recognized the power of radio broadcasting early in his career and began paying for airtime to broadcast his religious services in 1926, only six years after the advent of commercial broadcasting. Although his anti-socialist and anti-industrialist commentary often sparked controversy and discussion, he became increasingly polemical in the late 1930s when the tone of his radio broadcasts began to turn heavily anti-Semitic.[8] The offensive nature of his broadcasts culminated on November 20, 1938 when he delivered an address in response to Kristallnacht (a night of Nazi persecution of Jewish citizens which occurred during November 9-10, 1938). Appearing to defend Nazi atrocities, he described the Jews as an aggressive group bent on spreading communism, stating, "Perhaps this persecution is only the coincidental last straw which has broken the back of this generation's patience." He declared that Nazism acted as "a defense mechanism against Communism" adding that "the rising generation of Germans

[7]Zarkin, Kimberly A. and Michael J. *The Federal Communications Commission: Front Line in the Culture and Regulation Wars*. Westport:Greenwood Press, 2006, 4, 5, 1; Powe, Lucas A. *American Broadcasting and the First Amendment*. Berkley: University of California Press, 1987, 33

[8] For a full discussion of Coughlin's comments and opinions during the Depression Era years, see Chapters 2-7 of Warren and Alan Brinkley's *Voices of Protest: Huey Long, Father Coughlin, and The Great Depression*

regard Communism as a product not of Russia, but of a group of Jews who dominated the destinies of Russia." Coughlin, apparently wanting to appear fair-minded, clarified his remarks, commenting that he referred only to "guilty Jews" and that he felt "sincere sympathy to the millions of humble religious Jews" that were often maltreated by people who did not differentiate "between good Jews and bad Jews." Despite this attempt to appear positive, he continued his remarks by holding the "good Jews" responsible for the "bad Jews'" actions. "Nazism, the effect of Communism, cannot be liquidated in its persecution complex until the religious Jews in high places...attack the cause, attack forthright the errors and the spread of Communism, [for] Jewish persecution only followed after Christians first were persecuted," he claimed. [9]

News of Coughlin's broadcast spread around the nation as media outlets reported not only his forceful words, but also various radio stations' responses. Following his address, radio station WMCA of New York broadcast that Coughlin "has uttered certain mistakes of fact." After Coughlin refused to submit copies of future addresses to WMCA prior to broadcasting, the station removed him from the air. WWJD of Chicago and WIND of Gary, Indiana followed suit, refusing to broadcast the address of November 20th.[10]

Although the radio stations did not publicize their specific reasons for dropping Coughlin's broadcast, civil libertarians had reason to believe that the stations' actions were motivated by FCC intimidation. Although FCC Chairman Frank McNinch had admitted in January of 1938, "In our present system and statute under which the Federal Communications

[9] Warren, 23, 155-7

[10] *New York Times,* November 21, 1938, November 28, 1938; *Daily Worker*, November 29, 1938; New York Times, November 28, 1938

Commission functions, the commission has no power of censorship," he contradicted himself a month later when he declared that unless individual radio stations "policed" their programs, the FCC would have to step in to ensure acceptable program content. His contradictory statements helped create an uncertain atmosphere in the broadcasting industry reminiscent of the anxiety felt in the print community during World War I when the postmaster general exercised his power to revoke the second-class mailing privileges of offending periodicals.[11]

Many civil libertarians, including the ACLU, expressed concerns that the FCC had indirectly censored Coughlin by intimidating radio stations. In December, the ACLU released an official statement which defended the rights of individual radio stations to control the content broadcast over their frequency, but also expressed concern that radio stations had censored Coughlin because they feared "the Federal Communications Commission might revoke or refuse to renew licenses if they continued to broadcast Father Coughlin's remarks."[12]

Inside the ACLU, many individuals agreed that Chairman McNinch had overstepped his bounds. Roger Baldwin wrote to Morris Ernst, an ACLU lawyer, "...the Chairman is seeking to do what the law forbids. We cannot therefore regard the station's action...as a matter of private contract." Believing that McNinch's comments about the policing of the airwaves were at least partially responsible for the radio stations' censorship of Coughlin, the ACLU requested that he publically clarify that the FCC could not revoke a station's license because of broadcast content. They ended their request with a strong reminder that the FCC had no power to regulate broadcasters' speech, stating "It seems to us a serious matter that censorship should be

[11] *New York Times,* January 15, 1938, February 15, 1938

[12] Statement by the American Civil Liberties Union on the relation of Reverend Charles E. Coughlin to Radio censorship, December 21, 1938 American Civil Liberties Union Archives : the Roger Baldwin years, 1917-1950.

accomplished thus indirectly in the name of the Federal Communications Commission when the law is so specific in denying to the Commission direct censorship." Although the FCC with the help of the courts had previously threatened to pull radio stations' licenses because of broadcasting content, the ACLU wished to make clear that these threats were in opposition to the law.[13]

Although the ACLU was wary of allowing the FCC to overstep its bounds, they did not seek to free radio broadcasting of all standards. Instead, they tried to carefully define the FCC's powers and thus make its regulatory process limited and transparent. Roger Baldwin, responding to a rabbi who asked for the ACLU's stance on the censorship of Coughlin, stated, "We insist that controversial issues must be given equal facilities on the air, and that a radio station putting on such a performance as that of Father Coughlin's must accord to his opponents the same opportunity to reach the public." Two days later, the Committee on Free Speech of the National Council of Freedom from Censorship (a sub-group of the ACLU) echoed Baldwin's sentiments during its December 9th meeting, noting that it "opposed the creation of any public agency with arbitrary powers to forbid or suppress freedom of expression in any medium," and further articulating that the right to free speech included the right to a venue for speaking "subject to reasonable regulations impartially administered." The ACLU, recognizing that the new frontier of radio required some regulations, criticized erratic and undefined censorship rather than speaking out against all government censorship. The FCC's indirect intimidation of radio stations and Chairman McNinch's contradictory statements contributed to a confusing and

[13] Roger Baldwin to Morris L. Ernst, December 21, 1938, American Civil Liberties Union Archives : the Roger Baldwin years, 1917-1950; Correspondence from the National Council on Freedom from Censorship to Frank McNinch, December 16, 1938, American Civil Liberties Union Archives : the Roger Baldwin years, 1917-1950; For examples of FCC intimidation and courts pulling radio stations' licenses see Powe, 11-101

unpredictable situation in which individuals had no clear guidelines by which to operate. The ACLU saw McNinch's statements as a threat to the civil liberties advances made under Roosevelt's administration. In response to a situation which had begun to bear similarities to the atmosphere of World War I, the ACLU supported clear, transparent, and limited regulation rather than chaotic and arbitrary silencing.[14]

The ACLU continued to support carefully restrained regulation during the following year when it gave its approval to the National Association of Broadcasters' new code. In October 1939, the National Association of Broadcasters (NAB), which consisted of the three largest radio networks as well as the majority of independent stations, passed a code which outlawed the discussion of controversial topics on paid radio programs. Halting Father Coughlin's broadcasts was a main objective of the code. As well as targeting the specific market of controversial paid broadcasting, it used specific language to differentiate between Coughlin's politically and racially charged addresses and other, more benign religious broadcasts. The code stated, "Radio which reaches men of all creeds and races simultaneously may not be used to convey attacks upon another's race or religion. Rather it should be the purpose of the religious broadcast to promote the spiritual harmony and understanding of mankind and to administer broadly to the varied religious needs of the community." Although the code's language specifically targeted Coughlin and his polemic broadcasts, the NAB committee responsible for the code claimed that the purpose of the code was not to inhibit those who "with the financial means to do so could buy all the available time necessary to monopolize, dominate, or control the discussion of public

[14] Roger Baldwin to Rabbi Morris Lieberman, December 7, 1938, American Civil Liberties Union Archives : the Roger Baldwin years, 1917-1950; Memorandum of a Meeting of the Committee on Free Speech of the National Council on Freedom from Censorship, held on Friday evening, December 9th, 1938, American Civil Liberties Union Archives : the Roger Baldwin years, 1917-1950.

issues through the radio medium, precluding an opposition without financial resources to present its case to the radio audience." The code effectively silenced Coughlin, although it allowed him to broadcast until May 1940, when the broadcast season ended.[15]

Some individual radio stations protested against the code, claiming that it was too restrictive. John Patt, the vice-president of WJR of Detroit and WGAR in Cleveland sent a telegram to the NAB claiming that the code represented a "step in the direction of censorship and the abridgement of free speech." Although he admitted that unregulated speech allowed "possible excesses," he maintained "it would be better to have the excesses than the cure that is now proposed." When the ACLU learned of Patt's telegram, they immediately released a statement to the press, arguing that Patt's protest was motivated by finance rather than conscience, declaring,

> What Mr. Patt really moans is that the profit has been taken out of free speech since hereafter Father Coughlin or anybody else under the rules of the new code cannot purchase time for the discussion of public issues. This is wholly in the interest of free speech since it puts everybody on the basis of equality and puts people without money on precisely the same footing as people with it. The new code corrects a situation so obviously unfair to free speech as to commend itself to every reasonable person.[16]

The ACLU's response to Patt shows its concern with the free speech limitations that accompanied many of the advantages of radio. A wealthy broadcaster could purchase choice broadcasting hours while his poorer opponents would not have the option of purchasing time during the most popular broadcasting slots. Although it was not entirely clear that Coughlin had an advantage of wealth, the ACLU was aware that some of Coughlin's opponents had had

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[15] *New York Post*, October 4, 1939,;Christian Science Monitor, October 4, 1939; Warren, 224

[16] Telegram from John F. Patt to the National Association of Broadcasters, October 5, 1939, American Civil Liberties Union Archives : the Roger Baldwin years, 1917-1950; ACLU Press Release, October 7, 1939, American Civil *Liberties Union Archives : the Roger Baldwin years, 1917-1950.*

difficulty securing airtime to speak against him. A little more than a month earlier, WJR had canceled a broadcast by Rev. Walter E. Cole, a Unitarian minister and critic of Coughlin. Cole had planned to critique Coughlin during his broadcast. When questioned, the station manager commented "inasmuch as Father Coughlin has never personally attacked Mr. Cole, I don't think Mr. Cole should be permitted to attack Father Coughlin over WJR." Although the cancellation of Cole's broadcast appeared to be a matter of a station manager's whim rather than Coughlin's wealth, it represented a situation in which Coughlin aired his opinions without having to answer to another's critique. Although an "equal time" proposal might have offered more protection for opponents of Coughlin, the ACLU saw the NAB code as a step towards equalizing the allotment of airtime. [17]

John Patt disagreed. In a series of letters to Henry Eckstein, a member of the ACLU active on the National Council for the Freedom of Censorship, and Roger Baldwin, Patt continued to argue that the code abridged free speech. He put forth an idealistic view of radio stations, writing that they, "have always, to my knowledge, been willing to treat all classes, organizations, and parties alike" and claiming that his station's facilities had been used "by four individuals and organizations who have opposed his views, all at equal terms with Father Coughlin."[18]

Despite Patt's arguments to the contrary, the ACLU maintained its position that the code's restraint helped rather than hindered freedom of speech. In a letter to Hazel Rice, the ACLU secretary, Eckstein wrote that he would advise Patt that the only interest of the ACLU

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[17] *New York Times*, August 31, 1939

[18] *National Cyclopaedia of American Biography*. Vol. XLII. New York: James T. White and Co, 1958, 452; John Patt to H.J. Eckstein, November 6, 1939, American Civil Liberties Union Archives : the Roger Baldwin years, 1917-1950.

was to ensure "at least two sides of each question be fairly, and at the same time, expressed by representative opposing points of view." Through their support of the NAB code, the ACLU developed a position which held that careful and impartial speech regulation aided freedom of speech by allowing those with less power and wealth to air their opinions in an environment free from overwhelming competition from wealthier and more powerful opponents. [19]

Although the ACLU's answer to the problem of Coughlin's radio broadcasts was to adopt a policy of transparent and impartial regulation, the response of the liberal and civil libertarian media differed. Two publications, *The New Republic* and *The Nation*, both known for their liberal and civil libertarian views, broadly supported the radio censorship of Coughlin and others like him. Unlike the ACLU, they did not focus on a process of limited and impartial regulation, but simply called for silencing.

Since the First World War, *The New Republic* had undergone changes in leadership. Its editor, Bruce Bliven, began working for the magazine in 1923, after previously serving on the editorial staff of *Printer's Ink* and the New York *Globe*. Although the publications with which he was involved during World War I did not experience censorship, as a journalist he had experienced the atmosphere of repression. Through the 1920s, Bliven and his editorial board took up a number of civil liberties causes including academic freedom, freedom of speech, and the rights of women and minorities. He supported Roosevelt and welcomed the New Deal, but when war broke out in Europe, both he and *The New Republic* opposed United States intervention. Despite his early opposition, by 1941 Bliven and his editorial board had become so

[19]Henry Eckstein to Mrs. Hazel Rice, October 23, 1939, American Civil Liberties Union Archives : the Roger Baldwin years, 1917-1950.

anxious over the prospects of an Axis victory that they began to support the idea of their country's involvement in the struggle against Hitler. [20]

Under Bliven, *The New Republic,* although it did not specifically agitate for censorship of Coughlin supported restrictions on similar public figures, and made it clear to their readers that that they placed Coughlin in a circle of individuals who could be silenced for the good of the listening public. In the summer of 1938, the magazine engaged in a debate with Roger Baldwin over the radio restrictions of Elisabeth Dilling, a radical anti-communist and anti-Semite, who was active in movements supported by Coughlin and made pilgrimages to Royal Oak to visit the priest. After Dilling spoke against the Methodist Bishop of Iowa, a radio station classified her statements as slander and suspended her broadcasts. *The New Republic* supported the action of the station, claiming that it had acted within its rights to protect itself from slander and libel suits. Furthermore, the editors of *The New Republic* "should like to see someone restrict her activities by winning a good fat judgment against her..."As much as they wished to see this judgment, they did not want to "compel a radio station to incur the risk of sharing liability for such a judgment."[21]

Baldwin countered their argument by warning that, "the power of a radio-station manager to keep anybody off the air because of the alleged slanderous character of proposed remarks" amounted to unregulated, arbitrary, and dangerous censorship. *The New Republic* responded that Dilling's speech inhibited the speech of others, stating "Mrs. Dilling's stock-in-trade is the smearing of reputations for the purpose of preventing people from being allowed to

[20] American National Biography. Eds. John A. Garraty and Mark C. Carnes. V. 3. New York: Oxford University Press, 1999, 33-4

[21] Jeansonne, Glen. *Women of the Far Right: The Mothers; Movement and World War II.* Chicago: University of Chicago Press, 1996, 33; "Free Speech Again, *The New Republic,* August 3, 1938, 347

speak or publish." *The New Republic* believed that the suspension of Dilling's broadcasts was necessary for two reasons – to protect the radio station itself from consequences and to protect the speech of those whose reputations Dilling had attacked. Like the ACLU, *The New Republic* believed that restricting the speech of some could protect the speech of others. While the ACLU wished to restrict those wealthy enough to outshout their opponents by buying up broadcast time, *The New Republic* wished to restrict those who silenced their opponents through slander. Despite their agreement that restricting some individuals could protect the speech of others, in 1938, *The New Republic* did not share the ACLU's concern that these types of restrictions, if not carefully regulated, could mark a return to the suppression of dissent so common during World War I. Rather than supporting the station's suspension while warning against the abuse of station power and the possibility of FCC intimidation, they simply supported cessation of Dilling's comments.[22]

The New Republic made it clear that they placed Coughlin in the same category as Dilling. Even before Coughlin's Kristallnacht address, *New Republic* expressed its disgust with Coughlin, his philosophies, and his tactics. An article entitled "Father Coughlin: Anti-Semite," by Geroge Seldes, a free-lance journalist who later published a volume documenting the persecution of leftists in America, described Coughlin as "the leading anti-Semite in America," claimed that he "outdoes the Silver Shirts, the American Vigilant Federation, and various Ku Kluxers," and drew parallels between him, Mussolini, and Hitler. After the Kristallnacht address, on December 7, *New Republic* published an editorial which named Coughlin one of the "most prominent purveyors of lies in the United States." A few weeks later, they responded to Coughlin's cries of censorship, stating "Out of this incident [WMCA's censorship of Coughlin],

[22] *The New Republic*, August 31, 1938

a free –speech case has been manufactured." *The New Republic*, rather than stating that it believed Coughlin ought to be censored, did not recognize the dropping of his broadcasts as a form of censorship. The editors of *The New Republic*, who, had seen blatant governmental censorship during World War I (although they had not experienced it personally), saw the decisions of individual radio stations to suspend broadcasts as a matter of business, rather than public "censorship." Although the ACLU believed that radio stations had dropped Coughlin in response to FCC intimidation, *The New Republic,* under the pro-New Deal Blevin, did not share this concern. Rather they viewed the stations' suspension of Coughlin's broadcasts as an exercise in their own civil liberties. As the editors had argued in the case of Dilling, if radio stations did not wish to broadcast views which they found repugnant or which could leave them vulnerable to law suits, they ought to be free to refuse their services.[23]

The Nation, another periodical known to be both liberal and civil libertarian in its viewpoints, took a tack similar to that of *New Republic.* Like *New Republic*, they had also undergone changes in leadership since World War I. Their editor and publisher, Freda Kirchwey, began working at *The Nation* in 1918, and was on staff in September of 1918 when the government barred magazines from the mails for an article criticizing the administration's labor policy. Kirchwey's greatest concerns veered towards the social rather than political, and her writing focused particularly on anti-Semitism and feminism. By the late 1930s, she had become

[23] Selde published *Witch Hunt: The Techniques and Profits of Redbaiting* in 1940; "Father Coughlin: Anti-Semite, *The New Republic*, November 2, 1938; Un-American Lies," *The New Republic*, December 7, 1938; Station WMCA and Father Coughlin," *The New Republic*, December 28, 1938

particularly involved with reporting Hitler's atrocities against the Jews and the plight of Jewish refugees from Europe.[24]

Like *The New Republic, The Nation* indicted Coughlin as a radical anti-Semite with fascist tendencies, and indirectly supported his censorship. On December 17, 1938 William C. Kernan, an Episcopal rector from New Jersey, writing for *The Nation,* asked their readership, "Shall we, reared in the American tradition of tolerance and goodwill, join forces with those who, like Father Coughlin, would mock our tradition and with their mockery destroy our civilization?" Although Kernan did not explicitly state that he wished the FCC to censor Coughlin, his rhetorical question implied that allowing Coughlin to speak would lead to the destruction of "tolerance and goodwill." Kirchwey and her editorial board had seen the consequences of Hitler's free expression in Europe, and did not wish to support similar free expression in their own country. Like the ACLU and the *New Republic, The Nation* believed that allowing certain types of speech trampled on the civil liberties of others. Despite sharing the ACLU's concern for the protection of speech rights, both *The Nation* and *the New Republic* did not recommend carefully limited and regulated censorship, but called for more government intervention and less regulated speech restrictions.[25]

While the ACLU advocated a different approach than the one supported by *The Nation* and *The New Republic*, the end result was the same – the silencing of Father Coughlin. The difference in their methods, however, was important. Although the ACLU desired the same results as *The Nation* and *The New Republic*, it recognized that allowing the government to

[24] Peterson, 100; American National Biography. Eds. John A. Garraty and Mark C. Carnes. V. 12. New York: Oxford University Press, 1999, 749

[25] Coughlin, the Jews, and Communism," *The Nation*, December 17, 1939; "For Tolerance", *Time,* March 27, 1939, http://www.time.com/time/magazine/article/0,9171,931194,00.html, accessed March 27, 2008

silence Coughlin in an uncontrolled and un-democratic fashion could open a Pandora's Box. If civil libertarians allowed the government to set a precedent of censoring without proper and transparent procedures, it could revert to the unrestrained censorship practices which thrived during World War I. Although the ACLU wanted Coughlin quieted, they did not want to return to the unreasonable practices which they had experienced two decades earlier.

The New Republic and *The Nation* did not reflect the feelings of all liberal individuals. For example, Philadelphia labor leader, James F.X. Coyle, told Variety, "We are bitterly opposed to the type of propaganda spread by Father Coughlin and for years now have registered our protest in many ways. However we are unalterably opposed to the tactic of keeping anyone from expressing himself. Father Coughlin will only become a serious menace to labor when we attempt to deprive him of his constitutional rights." Other media outlets also warned against the censorship of Coughlin. A New York Times editorial stated, "If the government steps in, the treatment of opinion will not be gentle and the hand laid on liberty will not be light." Despite these exceptions, the perspectives of *New Republic, The Nation* and the ACLU showed that many liberals and civil libertarians felt unease at the prospect of simply allowing Coughlin to broadcast unregulated. Whether they consciously supported the ACLU's policy of careful and limited regulation or simply agreed with *The Nation* and *New Republic* that someone ought to silence Coughlin, many liberals and civil libertarians felt that action needed to be taken against Coughlin's exercise of free expression.[26]

Although Coughlin's broadcasts petered out through 1940 and virtually halted by 1941, he continued to make waves through the publication of his magazine *Social Justice*, which

[26] *Variety*, December 7, 1938; *New York Times*, November 28, 1938

circulated to an estimated 200,000 readers. Though not an official owner or editor of the paper, Coughlin was its founder and exercised editorial control. Both the media and the government consistently referred to *Social Justice* as "Coughlin's paper."As World War II approached, *Social Justice* began viciously attacking the United States' ally, Great Britain. On October 14, 1940, rather than expressing sympathy for the suffering caused by the Nazi bombing of London, *Social Justice* proclaimed with dimly disguised glee, "The 'serial blitzkrieg' of National Socialism against the fiancé-capitalism [sic] of the British Empire *has already won!" Social Justice* opposed the aid the United States gave to Britain, declaring "Roosevelt should be impeached" after he sent B-17s to Britain. Seven months later, *Social Justice* aired its suspicions that Britain could not be trusted, asserting, "Britain to Turn on Us!" The editors of *Social Justice* took a particular liking to asking rhetorical questions about Britain, for example, inquiring "What are Great Britain's war aims? Are they as pure and holy as Prime Minister Winston Churchill states them, that is, the destruction of Nazism and the preservation of Christianity? Or is it something more selfish and material that the English people are fighting for?" Although historians in later decades explored some of the same questions, at the time, *Social Justice's* distrust of British motivations appeared to undermine the United States' alliance with Britain and to support Britain's despicable enemy, Hitler[27]

After the bombing of Pearl Harbor, and the United States' entrance into the war, *Social Justice's* rhetoric became even more radical. Coughlin's anti-Semitism continued to show, as *Social Justice* claimed in an article entitled "Challenge to Jews," "It is our observation that nine-

[27] Steele, Richard W. *Free Speech in the Good War.* New York: St. Martin's Press, 1999, 162; Warren, 256; "Has the Nazi Blitzkrieg Won?" *Social Justice*, October 14, 1940, 3; "Roosevelt Should Be Impeached" *Social Justice*, October 21, 1940, 5; "Britain to Turn on Us!" *Social Justice,* May 26, 1941, 3; "What are British War Aims?" *Social Justice,* December 2, 1940, 13

tenths of the so-called anti-Semites in America would cease and desist if some publishers of ex-professo [expressly] Jewish weeklies and monthlies would change their tactics." In the early months of 1942, the claims made by *Social Justice* became more and more bizarre. A sampling of magazine headlines and article titles includes "Jap War Machine Supplied by Allies," Is a Republican Vote a Vote for Hitler?" "United States Invades Ireland," FDR Using War to Play Politics," and "Jews Plot to Ban Social Justice" Although *Social Justice* softened some of its allegations against Britain (limiting its headlines to more benign charges such as "American Children Hungry; British Eat"), it spoke against the country's other ally, Russia. One particularly delusional accusation was the claim that Russia was not actually an ally of the United States, but had allied itself with Japan in "a secret alliance." In another cluster of rhetorical questions, the magazine asked,

> Was Pearl Harbor an accident? Was the scuttling of the Normandic an accident? Was the diabolical program of governmental muddling an accident?...Why is there an impending shortage of oil? Because it was planned? Why is there a shortage of tin? Because it was planned? Why is there a shortage of rubber? Because it was planned? Why is there a lack of unity between labor and industry? Because it was planned? Why is there a lack of national defense in airplanes, submarines, destroyers? Because it was planned?

Although perhaps not surprising given Coughlin's fanatical opposition to Communism, his accusations against Russia, a wartime ally of the United States appeared even more threatening than his previous allegations against Britain. Many Americans speculated that Coughlin received Nazi money, and years later, evidence has surfaced indicating that Coughlin did indirectly receive money from the Nazis in an apparent effort to influence Hitler.[28] Coughlin, whose

[28] For a full discussion of the complicated situation in which Coughlin seemingly received Nazi funds, see Warren 233-245

extreme rhetoric had been worrying before the war, now seemed to descend into vicious and potentially harmful insanity.[29]

The controversy caused by *Social Justice* created problems for the Roman Catholic Church. When Coughlin's broadcasting turned controversial, his archbishop, Edward Mooney, concerned with the impact Coughlin was having on Jewish-Catholic relations, attempted to silence him through ecclesiastical measures. Vague instructions from a Vatican uninterested in becoming bogged down in local concerns prevented Mooney from taking decisive action against Coughlin before the NAB code halted Coughlin's broadcasts. With the advent of *Social Justice's* polarizing articles and headlines, Coughlin caused another public relations problem for the church. Although Coughlin kept his relationship to the magazine intentionally vague (he served as an "editorial counsel"), Mooney moved aggressively against him in February 1940, demanding Coughlin either end all ties to *Social Justice* or grant the church full control of the publication. At first Coughlin agreed to allow a board of review to censor the magazine, but after two months, he informed Mooney that he would relinquish all control of *Social Justice* after May 27. With Coughlin's resignation, the magazine had no formal ties to the Roman Catholic Church, and Mooney withdrew his censorship board. Coughlin's alleged departure from *Social Justice* proved to be nothing more than a mockery of church authority, as he continued to exercise blatant control over the magazine's content.[30]

By March of 1942, *Social Justice* had become a thorn in the government's side. President Roosevelt, already painfully familiar with Coughlin's shenanigans, specifically asked his

[29] "Challenge to Jews," *Social Justice*, January 19, 1942, 12; *Social Justice*, February 2, February 16, February 9, March 2, and March 30, 1942; *Social Justice*, December 15, 1941, 7; "Have the Reds Got Us?" *Social Justice*, February 23, 1942

[30] For a full discussion of the Roman Catholic Church's actions against Coughlin's radio broadcasts and his role in *Social Justice*, see Warren, Chapter 12

attorney general, Francis Biddle, to target *Social Justice* for postal censorship. Under the Espionage Act of 1917, the post office gained the power, during wartime, to remove the second and third class mailing privileges of publications suspected of trying "to interfere with the operation or success of the military...or to promote the success of its enemies." Biddle, examined copies of *Social Justice* through January 12, 1942, but could not find any material fitting the requirements of the Espionage Act. Biddle's effort to find material which specifically fit the Espionage Act showed a concern for civil liberties lacking in Woodrow Wilson's Justice Department during the First World War. Biddle recognized the problems in the prosecution of free speech during World War I, calling it a "serious example of hysteria," and declared that he would only suppress speech "when public safety was directly imperiled."[31]

Despite the lack of evidence that *Social* Justice seriously detracted from the war effort, an article entitled "Voice of Defeat," published in Life Magazine in early April named Coughlin as a seditionist and "the most widely read mouthpiece of this type [anti-Semitic] of Nazi propaganda in the U.S." The article, although it did not specifically call for the prosecution or censorship of Coughlin, praised signs that the Justice Department was "getting tough," and implied that the Department had a responsibility to the war effort to silence Coughlin and those like him. The article embarrassed Biddle and the Department of Justice. Consequently, shortly after its publication, Biddle consulted with President Roosevelt and J. Edgar Hoover, and then recommended to Postmaster General Frank Walker that he revoke *Social Justice's* mailing privileges. Walker withheld delivery on the pending issue of *Social Justice* and called a hearing on April 29th at which *Social Justice's* publisher (not Coughlin) would have the opportunity to

[31] For a full discussion of Roosevelt's prior experience and exasperation with Coughlin, see Brinkley, Alan, *Voices of Protest.* New York: Random House, 1982, Chapters 5-8; Steele, 162-3; Biddle, Francis. *In Brief Authority.* New York: Doubleday and Co, 1962, 234-5

argue for the continued second-class mailing of his magazine. In his public statement to the press, he used the April 27 issue of the magazine to demonstrate why he was withholding mailing privileges, claiming that the issue

> continues a 'sustained and systematic attack on certain of our activities directly relating to the war effort, as well as upon public moral generally; and emphasizes enemy propaganda themes such as 'disparagement of the intentions and motives of Great Britain and the United States, blame for the war on international bankers and their control of or influence in the present national administration, and in the governments of the Allies; creation of racial hatreds and distrust,; constant and frequent attacks upon the war policies of the present government; and doubt as to the ability of the United Nations to win the War

Meanwhile, Biddle announced that a grand jury would begin investigating Coughlin as a possible purveyor of Axis propaganda. The combined forces of the mail censorship and grand jury investigation placed greater pressure than ever on Coughlin's ecclesiastical superiors. By mid-April, Archbishop Mooney had begun negotiating with administration and Department of Justice representatives. The government representatives offered to drop their investigation of Coughlin if Mooney could guarantee that Coughlin "never opened his mouth again." Mooney, who now had the full support of his own superiors, complied, and in May of 1942, *Social Justice* voluntarily relinquished their second-class mailing privileges.[32]

Although the ACLU showed concern over the mail censorship of *Social Justice*, their concern laid with the process of censorship rather than the censorship itself. During the New Deal, many liberals changed their perception of the government seeing it as an advocate for rather than an enemy of the people. Consequently, the ACLU expressed few qualms when the government moved to silence the outlandish accusations in *Social Justice*. Despite its newfound

[32] Voices of Defeat," *Life*, April 13, 1942, 86-100; Post Office Department Press Release, April 26, 1942, American Civil Liberties Union Archives : the Roger Baldwin years, 1917-1950; Steele, 161-172

confidence in the government, the ACLU had not entirely forgotten the censorship problems of the past. ACLU members feared that the undemocratic process by which Walker and Biddle achieved censorship would open the door for a return to the type of mail censorship exercised during World War I by Postmaster General Albert Burleson. During World War I, Burleson ruled the mails with an iron, but arbitrary, fist. Rather than setting down specific regulations and rules, he stated that newspapers could criticize the government as much as they liked, but that "there is a limit." In another characteristic declaration, Burleson said that he would not restrict socialist publications unless they published treasonous or seditionist material, but that "Most Socialist papers do contain this matter." Burleson generally did not collaborate with other departments or officials in deciding which publications were dangerous enough to merit censorship, but made the decisions himself. In at least one case, he defied a court's ruling, and revoked mailing privileges after the court had temporarily guaranteed them. The ACLU, born out of the fight against the arbitrary and seemingly senseless censorship of the First World War, wanted to keep Walker and Biddle from exercising illegitimate power in the same way as Burleson had done.[33]

Examining Walker and Biddle, ACLU members viewed Walker as the more dangerous of the two men. Biddle's cognizance of the hysterical censorship during World War I combined with his own civil libertarian convictions and membership in the ACLU comforted those civil libertarians who feared a return to the attitudes of World War I. Despite his civil libertarian convictions, other civil libertarians, including Roger Baldwin, saw Biddle as indecisive and easily influenced. Baldwin's concern that Biddle could be easily swayed, shows in a letter he

[33] Quoted in Peterson, H.C. and Gilbert C. Fite, *Opponents of War: 1917-1918.* Madison: University of Wisconsin Press, 1957, 95-6; For a more detailed account of Burleson's exploits, see Peterson, 95-101

sent to Arthur Garfield Hays, the ACLU's general counsel, in which he wrote,"Our friend Biddle needs a personal letter from you as general counsel. He is evidently being pushed around as he has been so many times. He needs a little stiffening by the kind of argument you can make." Baldwin, although he did not know about the forthcoming *Life* article, anticipated that Biddle might succumb to outside pressures.[34]

As the mail censorship of *Social Justice* became public, the ACLU stated that Walker and Biddle's unilateral decision constituted "censorship without trial." They further fleshed out their concerns in a telegram sent to Walker, in which they warned

> While we hold no brief for the editorial policy of Social Justice and detest its intolerance, we deplore summary action under the Espionage Act. If the precedent thus established is extended, no periodical enjoying second-class mailing privileges is safe from the threat of an arbitrary censorship not subject to court review of the facts and when desired, by judgment of a jury

The ACLU did not simply protest against arbitrary mail censorship, but also suggested a solution - the formation of an advisory committee. Baldwin wrote to Edmund Campbell, a lawyer and civic activist, "...the ideal advisory committee would consist of a representative of the Office of Facts and Figures, of Col. Donavan's agency, of the Censorship Board, of the Department of Justice, and of the Post Office Department."[35] In the same letter, Baldwin admitted that his proposed committee "cannot be done in connection with this case, but it ought to be done later."

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[34] Steele, 119-120; Roger Baldwin to Arthur Garfield Hays, March 26, 1942, American Civil Liberties Union Archives : the Roger Baldwin years, 1917-1950.

[35] The Office of Facts and Figures was "designed to promote an informed and intelligent understanding of the status and progress of the war effort, war policies, activities, and aims of the United States government." Library of Congress, http://www.loc.gov/folklife/guides/rumors.html, accessed April 21, 2008

Baldwin's concern with the censorship of *Social Justice* came not out of a particular interest in *Social Justice's* plight, but out of an apprehension that it might set a dangerous precedent.[36]

A facet of the censorship case which specifically worried Baldwin was Walker's disinclination to confer with others outside his own department. Baldwin commented to Campbell, "Confidentially, James Rowe Jr., assistant to the Attorney-General, told me that there is a disposition in the Department of Justice to urge such a committee, but that the Postmaster General had not at present gone behind his own department." Although many civil libertarians had built more trust in the government since the postal censorship of the First World War, Baldwin saw similarities, at least on the surface, between Burleson and Walker. These apparent similarities motivated him to nip Walker's unilateral censorship process in the bud. Despite Baldwin and the ACLU's concern with the censorship of *Social Justice*, they did not direct their statements and actions toward the censorship itself, but towards the mode of censorship, which they feared could turn into a dangerous precedent for the duration of the war.[37]

Although Baldwin and the ACLU called for proper and transparent procedures as well as limited censorship, the American media did not follow suit. Rather than expressing concerns that the *Social Justice* censorship might provide a precedent for the censoring of other, less radical, publications, newspapers across the nation praised the Post Office's actions. The media's reaction at least partially mirrored public opinion. 10,000 New Yorkers sent a petition to the Postmaster asking him to revoke *Social Justice's* mailing privileges "on the ground that it 'utters, disseminates, and counsels treason towards the United States." The majority of the nation's

[36] ACLU Press release, April 15, 1942, American Civil Liberties Union Archives : the Roger Baldwin years, 1917-1950; Telegram from the ACLU to Hon. Frank C. Walker, April 15, 1942, American Civil Liberties Union Archives : the Roger Baldwin years, 1917-1950; Roger Baldwin to Edmund D. Campbell, April 27, 1942, American Civil Liberties Union Archives : the Roger Baldwin years, 1917-1950.

[37] ibid

editorial pages contained many editorials praising the *Social Justice* ban and few editorials or letters cautioning against censorship.[38] *The New York Times* served as a notable exception warning its readers, "In these circumstances, we must ask ourselves how far we can go in the direction of suppression of opinion, even opinion as filthy as that express in Social Justice...When we suppress or hamstring opinions on any other ground [except that of sedition] we set a dangerous precedent."[39]

The New Republic joined the *New York Times* and the ACLU in calling for a democratic procedure of censorship. *The New Republic*, still under the editorship of Bruce Bliven, had not changed its opinion of Coughlin since his radio broadcasts. The periodical saw *Social Justice* as an extremely dangerous threat to the war effort, especially given its popularity among the working classes many of whom worked in defense factories. The magazine proclaimed "To spread doubt and disaffection in the minds of war workers, or their friends and relatives may be more effective for the Axis than to destroy many divisions at the front." Despite their concern with the integrity of American weapons, they did not see the answer in unlimited censorship. In a change from their stance on Coughlin's radio censorship, they argued "Every case should be subject to review, and if this is not technically possible through the existing courts, a special tribunal should be set up."*The New Republic* further argued that the most effective way to combat propaganda such as Coughlin's was with the dissemination of truth. "Our propaganda does not need to be false, like that of the Axis. The truth is good enough," they argued, "Fascist propaganda flourishes in a vacuum. It is our business to see that that vacuum does not exist."

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[38] A sampling of pro-censorship editorials includes "Clearing the Mails," Christian Science Monitor, April 16, 1942; "The Case of Father Coughlin," Passaic Herald News, April 28, 1942; "Democracy is Not Unarmed," New York Herald Tribune, April 16, 1942; and "Civil Liberties in Wartime," Arizona Republic, December 30, 1941

[39] "Social Justice Mail Ban Asked," PM Magazine, April 3, 1942; "The Case of Social Justice," *New York Times*, April 16, 1942

New Republic answered the threat of *Social Justice* by supporting the ACLU's call for limited and regulated censorship and urging the government and media to publish statements showing the false nature of *Social Justice's* accusations.[40]

In contrast to *New Republic, The Nation*, although it shared *New Republic's* reputation as a strongly liberal and civil libertarian publication, called for censorship without expressing a desire for either limitations or a democratic procedure. Before Walker had even announced the suspension of *Social Justice's* mailing privileges, *The Nation* advocated the censorship of all publications sympathetic to the Nazis. Specifically pointing to *Social Justice*, the editors of *The Nation*, headed by editor in chief Freda Kirchwey, stated, "*The Nation* has taken a stand in favor of curbing those newspapers which clearly take the Nazi line, whether they are financed by Hitler or are owned by American fascists. If the government follows that policy...it will be a simple matter to deal with Father Coughlin's *Social Justice...* " Roger Baldwin, in a letter directed to Kirchwey and published in *The Nation's* editorial page, argued with *The Nation's* stance, maintaining, "The proposal is dangerous because the machinery of suppression once set in motion would rebound ultimately against the liberal and labor press." The editors, in a seemingly glib response, answered, "How can our old friend Roger Baldwin talk such nonsense? Doesn't he really know an out-and-out fascist paper when he sees one?" They defended Kirchwey's stance that the government ought to censor all fascist publications, arguing, "We recognize the difficulties involved in any sort of legal coercion. We also recognize that this total war cannot be fought without it. The concentration camps of Europe are filled with those democrats who were afraid to infringe the 'rights' of their fascist enemies lest they set a precedent for the invasion of their own right." *The Nation's* editors concluded that Hitler and his

[40] "Free Speech in Wartime," *The New Republic*, April 27, 1942

fellow fascists represented a larger threat than the possible tyrannical tendencies of their own government. Rather than recognizing that their current government could transform into a tyranny and fill its own "concentration camps" with dissenters, they feared a fascist takeover from both within and without. [41]

The Nation's editors did put forth a valid concern. Having reported on the persecutions against Jews and dissenters in Nazi Germany, they realized the importance of recognizing fascist movements early, rather than simply dismissing them. Hitler had, after all, begun his career giving speeches in beer halls. Although *The Nation* might have wished to be optimistic about free speech, they knew that the exercise of speech rights abroad had contributed to the fascist takeover of Europe.

Although *The Nation* harbored legitimate concerns about the spread of fascism, they did not recognize that the ACLU concerns about unregulated governmental censorship also carried significant weight. Unlike Baldwin, *The Nation's* Kirchwey did not have the intimately personal experience with the nightmarish years of censorship during World War I. Among other experiences, Baldwin spent a year in jail during World War I as a conscientious objector. Kirchwey's experience with the four-day censorship of *The Nation* paled in comparison. Without the firsthand experience of the authoritarian capabilities of their own government, the editors of *The Nation* had difficulties imagining that unrestrained governmental censorship could be a comparable threat to Coughlin's fascist and possibly pro-Hitler propaganda. [42]

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[41] "The Shape of Things," *The Nation*, April 11, 1942; "Repression vs. Propaganda," *The Nation*, April 11, 1942

[42] Cottrell, Robert C. *Robert Nash Baldwin and the American Civil Liberties Union.* New York: Columbia UP, 2000, Chapter 8

A few weeks after its debate with Baldwin, *The Nation* changed its tone, stating on its editorial page, "Much as we detest Father Coughlin and *Social Justice*, we prefer to see them both put out of circulation by full court proceedings rather than by Administrative action." Despite the similarities between their language and that of the ACLU and *New Republic*, *The Nation* did not protest the unilateral proceedings against *Social Justice*, but rather praised the grand jury investigation of *Social Justice* by Biddle. The ACLU protested the manner in which Biddle, Walker, and the administration engaged in a sort of psychological warfare against Coughlin through the mail censorship, grand jury investigation, and negotiations with the church. *The Nation* saw these same actions as fair, democratic, and transparent. A few weeks later, after *Social Justice* had entirely collapsed, *The Nation* praised "the orderly processes employed by the Attorney General," and claimed "Father Coughlin cannot possibly cry persecution, since every safeguard of the democratic process was put at his disposal." While *The Nation* imitated the language of the ACLU and *New Republic*, they kept their earlier message, even going so far as to urge the subpoena of Coughlin "along with his editor and office boy and personal secretary." *The Nation's* change in tone did not signify a change in attitude.[43]

Despite *The Nation's* appetite for legal prosecution, the Department of Justice did not pursue prosecution of Coughlin after he agreed to silence himself. Coughlin initially attempted to creatively bypass his silencing (often through religious mailing lists), but fell out of the public consciousness until the end of World War II, although he remained active in his own parish. Although Coughlin did not officially announce the end of his silence until 1966, he began to give smaller public addresses in 1953. The silencing appeared to have stripped Coughlin of his attitude of defiance – he submitted the manuscript of his first public address to his diocese and

[43] *The Nation,* April 25, May 16, 1942

made the suggested (or mandated) changes quietly. Coughlin never again occupied a prime position in the national spotlight, but he continued to throw his support behind politicians and issues with which he agreed. During John F. Kennedy's campaign for the presidency, his father Joseph Kennedy was so disturbed by the prospect of Coughlin publically supporting his son that he explicitly warned him, through an associate, to abstain from an endorsement. After Coughlin's death in 1979, several organizations and publications, some of which propagated anti-Semitic ideas, praised his accomplishments.[44]

Coughlin's exercise of speech forced liberals and civil libertarians to admit that they occupied a situation drastically different than that which they had faced during World War I. Many civil libertarians, after witnessing Hitler's success abroad, saw dangers in allowing Coughlin's fascist speech to flourish unrestrained. Coughlin's use of broadcasting to disseminate his threatening ideas as well as the new perception of the government as an ally of the people rather than their enemy also obliged civil libertarians to rethink their stances. Although the ACLU, *The New Republic,* and *The Nation* took different approaches to the possibility of government censorship, they all agreed that speech restrictions had become necessary.

The changed perspective of civil libertarians, who only two decades earlier, had violently opposed government intervention in matters of free speech set a precedent for later First Amendment cases. In 1949, when the FCC ruled that radio stations had a duty to maintain a balance in their controversial programming, they echoed the sentiments of civil libertarians who had feared that Coughlin's exercise of free speech inhibited the speech of others. The FCC

[44] For a full discussion of Coughlin's attempts to exercise influence immediately after his silencing, see Warren, Chapter 14; Warren, 294, 296,; For a full discussion of Coughlin's activities after his silencing, see Warren, Chapter 15

continued this sentiment when it adopted the Fairness Doctrine in 1959, requiring broadcasters to seek out controversial issues and then grant equal broadcasting time to opposing views on the issues. These later broadcasting regulations reflect the attempt by the government and civil libertarians to balance public interest and private liberty during the years when Father Coughlin appeared to threaten national security. [45]

As well as influencing later government decisions, Coughlin's situation showed the potential challenges within the civil liberties movement. Although civil libertarians during and directly after World War I had viewed censorship as primarily an attack on the labor movement and other "liberal" activities, the restrictions on Coughlin censored anti-Semitism and fascism – both movements which most civil libertarians found repugnant. Coughlin forced civil libertarians to negotiate the challenge of protecting speech that offended them and had the potential to harm their country. In the 1950s, civil libertarians' reactions to McCarthyism and the Cold War often mirrored their responses to Coughlin. Many civil libertarians, including Roger Baldwin, accepted federal loyalty programs as a necessity while opposing the lack of transparency and democratic procedures inherent within these programs. The acceptance of carefully regulated and transparent government intervention carried over from the threat of Coughlin's fascism to the threat of communism. [46]

Civil libertarian experiences with the government's restriction of Coughlin influenced their view of First Amendment rights. As opposed to the censorship exercised by the government during World War I, civil libertarians could not view the government's restriction of Coughlin in

[45] Powe, 111; Labunski, Richard E. *The First Amendment Under Siege: The Politics of Broadcast Regulation.* Westport: Greenwood Press, 1981, 15

[46] For a discussion of civil libertarian responses to federal loyalty programs, see Walker, Chapter 8

purely black and white terms. The censorship of Father Coughlin showed the nuances and difficulties inherent in the protection of First Amendment rights. Civil libertarians grappled with the realization that protecting free speech often meant defending views which they found repugnant and which potentially posed a threat to the security of their country. Civil libertarians' experiences with Father Coughlin showed them the complexities inherent in the defense of free speech and gave them a pattern for negotiating future free speech challenges.